

Message Text

LIMITED OFFICIAL USE

PAGE 01 PORT A 01092 082137Z

70

ACTION ARA-10

INFO OCT-01 ISO-00 AID-05 EB-07 L-02 CIAE-00 INR-07

NSAE-00 /032 W

----- 070583

R 082105Z MAY 75

FM AMEMBASSY PORT AU PRINCE

TO SECSTATE WASHDC 9774

LIMITED OFFICIAL USE PORT AU PRINCE 1092

E. O. 11652: N/A

TAGQB EINV, HA

SUBJECT: HAITIAN LEGAL PROCEDURES AND CLAIM OF DUPONT CARIBBEAN

REF: PAUP 1081

1. ATTORNEY J. MARQUEZ, GC/LA, ACCOMPANIED BY EMBASSY ECONOFF, MET INDIVIDUALLY WITH FIVE LEADING HAITIAN PRACTICING ATTORNEYS TO DISCUSS HAITIAN LEGAL SYSTEM REGARDING INVESTMENT DISPUTES SUCH AS DCI. THE FOLLOWING IS THE CONSENSUS OF THESE DISCUSSIONS:

A. LEGAL AND COURT PROCEDURES OBSERVED IN DCI LITIGATION WERE STRICTLY IN ACCORDANCE WITH PROCEDURE ESTABLISHED IN CODE OF CIVIL PROCEDURE. THERE WAS NO EVIDENCE OF A LACK OF PROCEDURAL DUE PROCESS.

B. NONE OF DCI'S ATTORNEYS, ESPECIALLY VNJ. GERALD MERCERON, WERE SUBJECTED TO ANY DIRECT OR INDIRECT PRESSURE OR THREAT FROM THE GOVERNMENT. MR. MRECKERON STATE THAT HE PLEADED HIS CASE FREELY AND OPENLY.

C. ALL THE LAWYERS (EXCEPT MR. MERCERON) AGREED THAT THE JURISDICTION OF THE COURT SHOULD HAVE BEEN CHALLENGED (THE SUIT SHOULD HAVE BEEN PROPERLY FILED BEFORE THE COURT OF CLAIMS RATHER THAN BEFORE THE CIVIL COURT) AND THAT THE TECHNICAL PROCEDURAL ERROR IN PERFECTING THE INITIAL APPEAL APPEAR TO HAVE

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 PORT A 01092 082137Z

GIVEN THE HAITIAN APPEALS COURT THE EXCUSE IT NEEDED TO HOLD

AGAINST DCI. (THE OTHER LAWYERS BLAMED THE ERROR ON MR. MRECERON'S LIMITED FAMILIARITY WITH SUCH APPEAL PROCEDURES DUE TO INEXPERIENCE AND NOT DUE TO POLITICAL COERCION.) ALL THE LAWYERS AGREED, HOWEVER, THAT WHILE DCI'S DEFENSE MAY HAVE BEEN SOMEWHAT LACKING, THE RESULT WOULD PROBABLY HAVE BEEN THE SAME EVEN IF SUCH DEFENSE HAD BEEN MORE ADEQUATE.

D. THE DOCTRINE OF RES JUDICATA WOULD NOT PREVENT DCI FROM INITIATING A ND AND DISCRETE ACTION AGAINST THE HAITIAN GOVERNMENT FOR COMPENSATION PURSUANT TO ARTICLES 925 AND 1168 OF THE HAITIAN CIVIL CODE. SUCH ACTION WOULD LIE ALSO UNDER THE DOCTRINE OF UNJUST ENRICHMENT. ALL LAWYERS AGREED THAT IF DCI WERE TO FILE SUCH AN ACTION, THE GOVERNMENT WOULD PROBABLY CONTERSUE DCI FOR DWPUHES. (FYI MR. CLAUDE LEGER, THE LAWYER FOR TRANSLINEAR, STATED THAT IF DCI WERE TO FILE SUCH AN ACTION, TRANSLINEAR WOULD INTERVENE SEEKING TO ATTACH ANY PROCEEDS WHICH DCI MIGHT RECEIVE, ON THE GROUNDS THAT IT WAS TRANSLINEAR WHO ALLEGEDLY MADE THE ACTUAL INVESTMENT IN TORTUGA AND NOT DCI.)

E. ONLY MR. MERCERON BELIEVES THAT DCI WAS TREATED UNJUSTLY IN SUBSTANCE, ALTHOUGH NOT IN FORM, AND THAT MR. PIERSON WAS JUST "A DUMB, NAIVE HILLBILLY FROM TEXAS". ALL OTHER LAWYERS STATED THAT MR. PIERSON WAS A "WHEELER-DEALER" WHO USED "PGBITICAL" RATHER THAN ORDINARY LEGAL MEANS TO ACCOMPLISH HIS PURPOSE. SEVERAL LAWYERS INDICATED THAT PIERSON HAD "BOUGHT" SEVERAL POLITICIANS AND THAT POLITICS WAS THE CAUSE OF HIS PROBLEMS.

F. IF DCI DECIDES TO FILE AN ACTION FOR COMPENSATION, THERE ARE SEVERAL COMPETENT ATTORNEYS WILLING AND ABLE TO REPRESENT IT.

G. ONE OF THE LAWYERS SHOWED US DOCUMENTS ALLEGEDLY SHOWING WHERE THE VREDESTEIN INTERNATIONAL, N.V., A DUTCH COMPANY, HAD SUCCESSFULLY SUED THE GOVERNMENT BEFORE THE COURT OF CLAIMS. ALTHOUGH THE COURT HAD RENDERED A JUDGEMENT FOR THE FOREIGN COMPANY, SAID COMPANY HAD BEEN UNABLE TO COLLECT THE JUDGEMENT AS YET.
THOMSON

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: FOREIGN INVESTMENT, DISPUTES, LITIGATION, LAW, CONTRACTS, CONSULTANTS, ATTORNEYS
Control Number: n/a
Copy: SINGLE
Draft Date: 08 MAY 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: GolinoFR
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975PORTA01092
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D750162-0573
From: PORT AU PRINCE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t19750569/aaaacigp.tel
Line Count: 98
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION ARA
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 75 PAUP 1081
Review Action: RELEASED, APPROVED
Review Authority: GolinoFR
Review Comment: n/a
Review Content Flags:
Review Date: 09 SEP 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <09 SEP 2003 by ellisoob>; APPROVED <10 SEP 2003 by GolinoFR>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
05 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: HAITIAN LEGAL PROCEDURES AND CLAIM OF DUPONT CARIBBEAN
TAGS: EIND, DUPONT CARIBBEAN INVESTMENT, (MARQUEZ, J)
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 05 JUL 2006